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March 23, 2005

Agenda No. 12
01/25/05

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012


**Re: COMMUNITY STANDARDS DISTRICT MODIFICATION NO. 03-387-(5)
FIFTH SUPERVISORIAL DISTRICT/THREE-VOTE MATTER**

Dear Supervisors:

Your Board previously conducted a hearing regarding the above-referenced Community Standards District modification in which the applicant proposes three single-family residences in the East Pasadena-San Gabriel Community Standards District which exceed the maximum floor area which otherwise would apply. At the conclusion of the hearing, you indicated an intent to approve the modification and instructed us to prepare the appropriate findings and conditions for approval. Enclosed are proposed findings and conditions for your consideration.

Very truly yours,

RAYMOND G. FORTNER, JR.
County Counsel

By 
LAWRENCE L. HAFETZ
Principal Deputy County Counsel
Public Works Division

APPROVED AND RELEASED:


RAYMOND G. FORTNER, JR.
County Counsel

LLH:di

Enclosures

**FINDINGS OF THE BOARD OF SUPERVISORS
AND ORDER
COMMUNITY STANDARDS DISTRICT MODIFICATION NUMBER 03-387-(5)**

1. The County of Los Angeles Board of Supervisors ("Board") conducted a duly noticed public hearing in the matter of Community Standards District ("CSD") Modification No. 03-387-(5) on January 25, 2005. The Regional Planning Commission ("Commission") conducted its duly noticed public hearing in this matter on August 18, 2004. This proposal was heard concurrently with Oak Tree Permit Case No. 03-387-(5) and Vesting Tentative Parcel Map No. 060595.
2. Related Vesting Tentative Parcel Map No. 060595 is a proposal to create three lots on 3.38 acres. Related Oak Tree Permit No. 03-387-(5) is a request to permit the removal of 22 oak trees and to encroach within the dripline of an additional 22 oak trees. No Heritage Oaks are to be removed from the subject property.
3. The applicant is requesting a modification to the East Pasadena-San Gabriel CSD to permit the three proposed residences to exceed the maximum allowable floor area of 9,000 square feet otherwise allowed in the CSD. The CSD contains a maximum floor area permitted per residence in no case exceeding 9,000 square feet. Specifically, the applicant is proposing residences of 12,000 square feet on Lots 1 and 3, and 13,500 square feet on Lot 2. Although the Commission approved the related tentative parcel map and oak tree permit, the Commission declined to permit the modification of the CSD standards to authorize the applicant's proposed larger residence sizes.
4. The applicant has indicated an intent to develop a single-family residence on one lot and to sell the other lots for single-family residential development. The applicant intends to provide architectural drawings to buyers which depict residences that could be built on the properties.
5. The subject property is comprised of two parcels (APN 5377-010-037 and 5377-010-038) located on the north side of Lombardy Road (2935 and 2969 Lombardy Road), east of South San Gabriel Boulevard, and west of El Campo Drive. The property is within an approximate one-quarter mile wide strip of unincorporated Los Angeles County. The property is located in an unincorporated area of East Pasadena and in the East Pasadena Zoned District.
6. The rectangular shaped subject property is approximately 3.38 gross acres in size (147,368 square feet). When subdivided, the proposed lot areas will be as follows: Lot 1 – 1.097 gross acres (47,780 square feet), Lot 2 – 1.201 gross acres (52,330 square feet), and Lot 3 – 1.085 gross acres (47,258 square feet). The site has level topography and is currently vacant. The site contains mature oak trees, non-native grassland areas, and some areas of older concrete paving where the previously existing driveway was removed.

7. The project site is zoned R-1-30,000 (Single-Family Residential, 30,000 square feet minimum required area on 30,970 square feet, or approximately 21 percent of the site) and R-1-10,000 (Single-Family Residential, 10,000 square feet minimum required area on 116,398 square feet, or approximately 79 percent of the site).
8. Surrounding zoning is as follows: north: R-1-10,000 and R-1-30,000; east: R-1-30,000; south: R-1-10,000 and R-1-30,000; and west: R-1-10,000.
9. The project site is located within an urbanized and fully developed area and is surrounded by single-family residences to the north, east, south, and west.
10. Previous zoning cases on the subject property include Parcel Map No. 24733, Oak Tree Permit No. 97-058, and Oak Tree Permit No. 00-189.

Parcel Map No. 24733 and Oak Tree Permit No. 97-058

Parcel Map No. 24733 was a request to divide the subject property into four lots. Oak Tree Permit No. 97-058 was a concurrent proposal to remove 21 oak trees and encroach on an additional 22 oak trees in order to build single-family residences on the lots. The applicant filed this request in 1997 and went to public hearings in 1999, but withdrew the case prior to a decision in 2000. The previous owner of the subject property, not the current applicant, removed oak trees without the County's approval. The applicant purchased the subject property "as is," subject to the oak tree violations without any mitigation trees having been planted or any mitigation fees paid.

Oak Tree Permit No. 00-189

Oak Tree Permit No. 00-189 permitted the applicants, Mr. & Mrs. Fu, to remove ten oak trees from the subject property and to encroach into the protected zone of an additional 20 oak trees in order to construct a single-family residence on the property. The residence was to be 19,850 square feet and include an attached six-car garage, a pool, pool house, and tennis court. The County Forester recommended approval of the project, with recommended conditions that included the payment of the mitigation fees for the removal of the eight oak trees that were previously removed illegally (\$98,000). Representatives from the Lombardy Oak Tree Preservation Association ("Association") testified in favor of the proposal provided that recommended conditions submitted by the Association were included in the approval of the permit. The Association's recommended conditions of approval included providing conditions on the proper care and protection of the oak trees to all contractors present on the site, the presence of an oak tree consultant or arborist on the job site during all demolition and construction activities, the protection of trees located along the property lines of the site, and the redesign of the tennis court to save one particular tree. In

addition, a representative testified they had talked to Mr. & Mrs. Fu regarding the recording of a covenant indicating the importance of protecting oak trees, as well as letting any future owners of their property know the importance of the trees on their property. The record indicates Mr. & Mrs. Fu were in compliance with these conditions. Oak Tree Permit No. 00-189 was approved in December 2001.

When the Fu's submitted their application to the Los Angeles County Department of Public Works' Building and Safety Division to obtain their permit to construct the residence, the East Pasadena-San Gabriel CSD was in the process of being approved by the County. The public hearing on the CSD had already been noticed. The CSD was approved on July 23, 2002, and became effective August 22, 2002. The applicant was issued a building permit for the proposed 19,800 square-foot residence in error on July 18, 2002, which was revoked August 21, 2002. Under the new CSD, a 9,000 square-foot residence was the maximum which could be built. The Fu's did not appeal the decision to the Planning Commission and the residence was not built. The ten trees authorized to be removed, however, were removed.

11. The subject property is located within the "1" Low Density Residential classification of the Land Use Policy Map of the Countywide General Plan ("General Plan"). The low density residential regions depict areas particularly suitable for single-family detached housing units, including large lot estates and typical suburban tract developments. Densities typically range from one to six units per gross acre. The intent of this classification is to maintain the character of existing low density residential neighborhoods and also to provide additional areas to accommodate future market demand.

If the subject property is proposed to be subdivided as requested by the applicant, the lots would be Lot 1 – 47,780 square feet, Lot 2 – 52,330 square feet, and Lot 3 – 47,258 square feet. Under the General Plan "1" Low Density Residential classification, a maximum of seven units could be allowed on the subject property. The applicant's request of three single-family lots is in compliance with the density requirements of the "1" Low Density Residential classification of the General Plan.

12. During proceedings before the Commission, staff received a letter from the City of San Marino requesting that the Commission consider limiting the size of structures to be developed to achieve consistency planning with the properties surrounding the project site. The City requested that a maximum floor area ratio of 0.3 – 0.4 to be considered. The proposed residences appear to meet this standard.
13. Planning staff received six letters in support of this request while it was pending at the Commission. These support letters are from neighbors, three of whom live on Lombardy Road.

14. Planning staff received eight comment letters in opposition to this request. Although all the comment letters are not from neighbors within 500 feet of the subject property, all are aware of the previous requests on the subject property and the limitations within the East Pasadena-San Gabriel Community CSD. All of the letters were in opposition to the removal of additional oak trees from the site and to the modification to the maximum 9,000 square foot single-family residences.
15. Planning staff also received a comment letter from Latham & Watkins, LLP, representing the Association which stated concerns with respect to the removal of oak trees.
16. At its public hearing, the Commission heard the staff report, the applicant's presentation, four local residents in favor of the request and opposing testimony from four residents in the community. The community's concerns were primarily in opposition to the oak tree permit requested. The residents were concerned that additional oak trees would be removed from the property without residences being built as proposed.
17. At the public hearing before the Board, the applicant testified in favor of the project and presented correspondence. An interested resident in the area presented testimony in opposition to the proposed larger residence sizes contending that they would be incompatible with the surrounding community and with the oak tree resources of the area.
18. To approve a modification to the CSD, the Board considers the unique characteristics of the neighborhood where the site is located, in addition to the applicant's responses to the Burden of Proof for the Request for Modification of Standards in the CSD.
19. The Board finds that the modification to permit the larger residence sizes will not have a material adverse effect on the existing nearby residential community and that the lots created by related Vesting Tentative Parcel Map. No. 060595 are of sufficient size to allow side, front, and rear setbacks that are compatible with the community, and that special circumstances exist so as to warrant the modification proposed by the applicants. The Board further finds that the total square footage proposed for the three residences is less than the total square footage that would have been permitted without modification of the CSD standards if the applicant had proceeded with their original proposal to create five lots. Further, the Board finds that the sidewalk that had been required by the Commission in connection with the related tentative parcel map is actually not in keeping with the existing residential character of the community, and that its elimination would actually potentially be more protective of the oak tree resources on the site.

20. The related parcel map has been submitted as a "Vesting" Tentative Map. As such, it is subject to the provisions of Sections 21.38010 through 21.38.080 of the Los Angeles County Code (Subdivision Ordinance).
21. An Initial Study was prepared for this project in compliance with the California Environmental Quality Act (Public Resources Code Section 2100, et seq.) ("CEQA"), the State CEQA Guidelines, and the County's Environmental Document Reporting Procedures and Guidelines. The Initial Study showed that there are conditions or changes in the project that are necessary in order to assure that there will be no substantial evidence that the proposed project may have a significant effect on the environment. Mitigation measures include those related to biota, water quality, and mitigation compliance. Based on the Initial Study, the Department of Regional Planning has prepared a Mitigated Negative Declaration and Mitigation Monitoring Program for this project.
22. The Board has reviewed and considered the information contained in the Initial Study and Mitigated Negative Declaration together with any oral and written comments received during the public review process and finds on the basis of the whole record before it that there is no substantial evidence the project will have a significant effect on the environment, and finds the Mitigated Negative Declaration reflects the independent judgment and analysis of the Board.
23. The Board finds that the project is not *de minimus* in its effect on fish and wildlife resources. Therefore, the project is not exempt from California Department of Fish and Game fees pursuant to section 711.4 of the California Fish and Game Code.
24. The location of the documents and other materials constituting the record of proceedings upon which the Regional Planning Commission's decision is based is the Los Angeles County Department of Regional Planning, 13th Floor, Hall of Records, 320 West Temple Street, Los Angeles, California 90012. The custodian of such documents and materials shall be the Section Head of the Land Divisions Section, Los Angeles County Department of Regional Planning.

THEREFORE, THE BOARD OF SUPERVISORS:

1. Adopts the Mitigated Negative Declaration and its Mitigation Monitoring Program and certifies that they have been completed in compliance with CEQA and the State and County Guidelines related thereto; and
2. Approves Community Standards District Modification No. 03-387-(5) subject to the attached conditions.

CONDITIONS OF APPROVAL
COMMUNITY STANDARDS DISTRICT MODIFICATION NO. 03-387-(5)

1. Conform to the requirements of Title 21 and 22 of the Los Angeles County Code (Subdivision and Zoning Ordinances) including the requirements of the R-1-10,000/R-1-30,000 zone and the requirements of Oak Tree Permit No. 03-387-(5), and Vesting Tentative Parcel Map No. 060595, except as otherwise specifically provided herein. Further, conform to all requirements of the East Pasadena-San Gabriel Community Standards District, except for the floor area modifications provided for herein.
2. The permittee shall defend, indemnify, and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul this permit approval, which action is brought within the applicable time period of Government Code section 65009 or any applicable limitation period. The County shall promptly notify the permittee of any claim, action, or proceeding and the County shall cooperate fully in the defense. If the County fails to promptly notify the permittee of any claim, action, or proceeding, or if the County fails to cooperate fully in the defense, the permittee shall not, thereafter, be responsible to defend, indemnify, or hold harmless the County.
3. In the event that any claim, action, or proceeding as described above is filed against the County, the applicant shall within ten days of the filing pay the Department of Regional Planning an initial deposit of \$5,000, from which actual costs shall be billed and deducted for the purpose of defraying the expenses involved in the department's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance to the permittee or permittee's counsel. The permittee shall pay the following supplemental deposits, from which actual costs shall be billed and deducted:
 - a. If during the litigation process, actual costs incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds to bring the balance up to the amount of the initial deposit. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation; and
 - b. At the sole discretion of the permittee, the amount of an initial or supplemental deposit may exceed the minimum amounts defined herein.

The cost for collection and duplication of records and other related documents will be paid by the permittee according to Los Angeles County Code Section 2.170.010.

4. The single-family residences on Lots 1 and 3 of related Vesting Tentative Parcel Map No. 060595 may each have a maximum of 12,000 square feet of floor area, and the single-family residence on Lot 2 of said parcel map may have a maximum of 13,500 square feet of floor area.
5. The permittee shall cooperate with the Department of Regional Planning to process an amendment to Tentative Parcel Map No. 060595 to eliminate the requirement for sidewalks within the parcel map.
6. In light of the grant of the requested modifications herein, the permittee may not create the attached second units for the single-family residences as otherwise authorized by Condition No. 16 of Oak Tree Permit No. 03-087-(5).
7. Except as expressly modified hereinabove, this approval is subject to all those conditions set forth in the adopted Mitigation Monitoring Program for the proposal, on file at the Department of Regional Planning.